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AMENDED IN SENATE MARCH 10, 2011

SENATE BILL

No. 186

Introduced by Senators Kehoe and DeSaulnier
(Principal coauthor: Assembly Member Alejo)
(Coauthor: Assembly Member Lara)

February 7, 2011

An act to amend Sections 12463, 53890, and 53895 of, to amend, repeal, and add Section 12464 of, to add Article 6 (commencing with Section ~~12485~~ 12486) to Chapter 5 of Part 2 of Division 3 of Title 2 of, and to repeal Sections ~~53892.1~~, 53895.5, and 53895.7 of, the Government Code, relating to the Controller.

LEGISLATIVE COUNSEL'S DIGEST

SB 186, as amended, Kehoe. The Controller.

(1) Existing law requires the officer of each local agency who has charge of the financial records of the agency to furnish to the Controller a report of all the financial transactions of the local agency during the next preceding fiscal year within 90 days of the close of each fiscal year, as specified. Existing law defines local agency, for purposes of these financial reports to mean any city, county, district, and specified community redevelopment agencies.

This bill would also include within the definition of local agency any joint powers agency, ~~formed pursuant to the Joint Exercise of Powers Act, that issues conduit revenue bonds,~~ and would require that joint powers agency to furnish the Controller with the required financial reports.

(2) Existing law requires the Controller to annually compile and publish reports of the financial transactions of each county, city, and school district within the state, together with other matters he or she deems of public interest.

This bill would additionally require the Controller to annually compile and publish reports of the financial transactions of each joint powers agency ~~that issues conduit revenue bonds.~~

(3) Existing law provides that if the county, city, or district reports are not made in a specified manner, or there is reason to believe that the report is false, the Controller is required to appoint a qualified accountant to make an investigation and to obtain the information required for the annual report of financial transactions. Existing law provides that if a similar investigation is made of any county, city, or district for 2 successive years, then a copy of the results of those investigations shall be transmitted to the grand jury of the county investigated or in which the local agency investigated is situated. Existing law requires any costs incurred by the Controller in carrying out those audits to be paid by the local agency.

This bill would expand the above provisions to also include a special district; ~~or joint powers authority, or redevelopment agency.~~ This bill would also, until January 1, 2017, authorize the Controller to perform an audit or investigation of any county, city, special district, ~~or joint powers authority, or redevelopment agency,~~ if the Controller has ~~reason to believe, supported by documentation,~~ *made findings* that the local agency is not complying with the financial requirements in state law, state grant agreements, local charters, or local ordinances. ~~This bill would and require, until January 1, 2017, the Controller to prepare and file a report of the results of the audit or investigation and to file a copy with the local legislative body, as specified.~~ This bill would require that, until January 1, 2017, if the results of those audits determine that the financial report filed by the local agency did not contain false, incomplete, or incorrect information, then the Controller shall waive the costs of the investigation, and would authorize the Controller to establish a payment program to assist a local agency to pay for any costs that cannot be waived.

This bill would additionally authorize the Controller, if requested by a local agency, ~~to conduct a preliminary review to determine the existence of a local agency financial problem, and perform an audit upon completion of that review, subject to specified criteria.~~

~~The bill would require the Controller, if requested by a local agency, to convene a local agency financial review committee with a specified membership, and authorize the committee to recommend a financial recovery plan for a local agency requesting assistance. The bill would require the Controller to report to the Legislature annually on the actions of a committee formed pursuant to this act and the status of all engagements with local agencies pursuant to this act to provide assistance in reviewing and assessing its financial condition, as specified.~~

(4) Existing law provides that an officer of a local agency who fails or refuses to make and file his or her financial report within 20 days after receipt of a written notice of the failure from the Controller forfeits to the state a specified amount depending on the amount of total revenue of that local agency. Existing law raises these amounts in the case of a community redevelopment agency and a joint powers agency that issues conduit revenue bonds in the 2nd and 3rd consecutive year.

This bill would raise the forfeiture amounts for all local agencies, as specified. The bill would double these fines if the agency fails to submit the report to the Controller for 2 consecutive years, and would triple the fines if the agency fails to submit the report to the Controller for 3 consecutive years. The bill would also require the Controller to conduct an audit, as specified, of the local agency if the local agency fails to provide the financial reports for 3 consecutive years.

~~(5) Existing law requires the Superintendent of Public Instruction to make available to the Controller, on an as-needed basis, data and other matters required to permit the compilation of the financial transactions of school districts by the Controller.~~

~~This bill would repeal this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~

1 ~~(a) The economic recession has disproportionately affected~~
2 ~~California and, in particular, the local agencies that deliver vital~~
3 ~~services to the public. Many local agencies have been forced to~~
4 ~~take unprecedented steps to avert financial crisis and maintain a~~
5 ~~sound credit rating.~~

6 ~~(b) California has a vital financial interest in the solvency of its~~
7 ~~local agencies. When insolvency occurs at a local agency, the~~
8 ~~municipal credit in the state can be negatively impacted, costing~~
9 ~~the state and local governments millions of dollars, making~~
10 ~~borrowing more difficult, and hindering the state's economic~~
11 ~~recovery.~~

12 ~~(c) The health and welfare of the citizens of the state would be~~
13 ~~adversely affected by the insolvency of local agencies. Therefore,~~
14 ~~the fiscal health of local agencies is vitally necessary to the interests~~
15 ~~of this state in providing necessary governmental services.~~

16 ~~SEC. 2.~~

17 ~~SECTION 1.~~ Section 12463 of the Government Code is
18 ~~amended to read:~~

19 12463. (a) The Controller shall compile and publish reports
20 of the financial transactions of each county, city, special district,
21 ~~or and joint powers agency formed pursuant to the Joint Exercise~~
22 ~~of Powers Act (Article 1 (commencing with Section 6500) of~~
23 ~~Chapter 5 of Division 7 of Title 1) that issues conduit revenue~~
24 ~~bonds, respectively, within this state, together with any other matter~~
25 ~~he or she deems of public interest. The reports shall include the~~
26 ~~appropriations limits and the total annual appropriations subject~~
27 ~~to limitation of the counties, cities, and special districts. The reports~~
28 ~~to the Controller shall be made in the time, form, and manner~~
29 ~~prescribed by the Controller.~~

30 (b) Effective January 1, 2005, the Controller shall compile and
31 publish reports of the financial transactions of each county, city,
32 ~~and special district, or and joint powers agency formed pursuant~~
33 ~~to the Joint Exercise of Powers Act (Article 1 (commencing with~~
34 ~~Section 6500) of Chapter 5 of Division 7 of Title 1) that issues~~
35 ~~conduit revenue bonds, pursuant to subdivision (a) on or before~~
36 ~~August 1, September 1, and October 1 respectively, of each year~~
37 ~~following the end of the annual reporting period. The Controller~~
38 ~~shall make data collected pursuant to this subdivision available~~
39 ~~upon request to the Legislature and its agents, on or before April~~
40 ~~1 of each year.~~

(c) The Controller shall annually publish reports of the financial transactions of each school district within this state, together with any other matter he or she deems of public interest. The reports shall include the appropriations limit and the total annual appropriations subject to limitation of the school district. The reports to the Controller shall be made in the time, form, and manner prescribed by the Controller.

(d) As used in this section, the following terms have the following meanings:

(1) "School district" means a school district as defined in Section 80 of the Education Code.

(2) "Special district" means either of the following:

(A) A special district as defined in Section 95 of the Revenue and Taxation Code.

(B) A nonprofit corporation that is any of the following:

(i) Was formed in accordance with the provisions of a joint powers agreement to carry out functions specified in the agreement.

(ii) Issued bonds, the interest on which is exempt from federal income taxes, for the purpose of purchasing land as a site for, or purchasing or constructing, a building, stadium, or other facility, that is subject to a lease or agreement with a local public entity.

(iii) Is wholly owned by a public agency.

~~SEC. 3.~~

SEC. 2. Section 12464 of the Government Code is amended to read:

12464. (a) If the county, city, special district, *or* joint powers authority, ~~or redevelopment agency~~ reports are not made in the time, form, and manner required or there is reason to believe that a report is false, incomplete, or incorrect, the Controller shall appoint a qualified accountant to make an investigation and to obtain the information required. The accountant appointed shall report to the Controller the results of the investigation, and a copy shall be filed with the legislative body of the county, city, special district, *or* joint powers authority, ~~or redevelopment agency~~, the accounts of which were investigated. If a similar investigation has to be made of the accounts of any county, city, special district, *or* joint powers authority, ~~or redevelopment agency~~, for two successive years, a certified copy of the results of the investigation last made shall be transmitted to the grand jury of the county that was investigated or in which the local agency investigated is

1 situated, or, if the agency is situated in more than one county, in
2 the county in which any portion of the agency is situated.

3 (b) (1) If the Controller has ~~reason to believe~~ *made findings*
4 *pursuant to subdivision (c)* that any county, city, special district,
5 *or joint powers authority, or redevelopment agency* is not
6 complying with the financial requirements in state law, *state grant*
7 *agreements*, local charters, or local ordinances, he or she may
8 perform an audit or investigation of the issue if he or she makes a
9 determination that sufficient funds exist *within his or her budget*
10 to conduct the audit or investigation.

11 (2) The Controller shall prepare a report of the results of the
12 audit or investigation that shall include *detailed* documentation
13 ~~used as the basis of the material basis for the decision to perform~~
14 *findings included in the audit or investigation*. A copy of the report
15 shall be filed with the legislative body of the county, city, special
16 district, *or joint powers authority, or redevelopment agency* subject
17 to the audit or investigation. Any finding of illegal acts or fraud
18 shall be communicated to the appropriate authorities, including
19 the county grand jury.

20 (c) (1) ~~The basis for the decision to conduct an audit or~~
21 ~~investigation under subdivision (a) or (b) shall be supported by~~
22 ~~credible documentation, including input from the local agency.~~
23 *Prior to an audit or investigation being conducted pursuant to*
24 *subdivision (b), the Controller, after consultation with the local*
25 *agency, shall make written findings that explain the legal and*
26 *factual basis supporting the decision to conduct the audit or*
27 *investigation, and the Controller shall give the local agency a*
28 *reasonable opportunity to respond to these findings.*

29 (2) *In cases in which the Controller seeks to audit or investigate*
30 *compliance with the financial requirements in local charters or*
31 *local ordinances, the Controller shall first share with the local*
32 *agency the evidence relied upon in determining the need for the*
33 *audit or investigation and provide the local agency the opportunity*
34 *to conduct its own audit or investigation of the matter in a*
35 *reasonable period of time. If the local agency elects to conduct an*
36 *audit or investigation, the local agency shall provide the results*
37 *to the Controller promptly upon completion. If the Controller*
38 *subsequently proceeds with his or her own audit or investigation,*
39 *he or she shall make specific written findings concerning the*
40 *evidence relied upon in determining the need for the audit or*

1 *investigation and that each issue to be audited or investigated has*
 2 *not been or is not likely to be addressed by local means, which*
 3 *may include, but are not limited to, a civil grand jury or district*
 4 *attorney. The Controller shall not audit or investigate compliance*
 5 *with the financial requirements in local charters or local*
 6 *ordinances if the matter is the subject of actual or completed*
 7 *litigation. In addition, if the matter involves a pending policy or*
 8 *administrative decision, such as adoption of a budget or*
 9 *negotiations of labor or other contracts, the Controller shall not*
 10 *audit or investigate the matter until after a final decision has been*
 11 *adopted by the local agency.*

12 ~~(2)~~

13 (3) For purposes of this subdivision, documentation means any
 14 handwriting, typewriting, printing, photostating, photographing,
 15 photocopying, transmitting by electronic mail or facsimile, and
 16 every other means of recording upon any tangible thing any form
 17 of communication or representation, including letters, words,
 18 pictures, sounds, or symbols, or combinations thereof, and any
 19 record thereby created, regardless of the manner in which the
 20 record has been stored.

21 (4) *The Controller shall not initiate or conduct an audit or*
 22 *investigation pursuant to subdivision (b) of any local agency that*
 23 *falls within the date the local agency has initiated the neutral*
 24 *evaluation process, pursuant to Article 5 (commencing with Section*
 25 *53760) of Chapter 4 of Part 1 of Title 2, and the date that process*
 26 *has been completed.*

27 (d) (1) Any costs incurred by the Controller pursuant to
 28 subdivision (a), including contracts with, or employment of,
 29 certified public accountants or public accountants, in compiling a
 30 financial report pursuant to Section 12463 or 12463.3 of this code,
 31 or as required by Section 33684 of the Health and Safety Code,
 32 shall be borne by the county, city, special district, *or* joint powers
 33 ~~authority, or redevelopment agency,~~ and shall be a charge against
 34 any unencumbered funds of the county, city, special district, *or*
 35 ~~joint powers authority, or redevelopment agency.~~ Any forfeiture
 36 imposed by Section 53895 or 53895.5 may be offset up to the total
 37 costs incurred by the Controller. Any remaining balance shall be
 38 forfeited in accordance with Sections 53895 and 53895.5. Any
 39 costs incurred by the Controller in excess of the forfeiture imposed
 40 shall be a charge against any unencumbered funds of the county,

1 city, special district, *or* joint powers authority,~~or redevelopment~~
2 ~~agency~~.

3 (2) If an investigation conducted pursuant to subdivision (a)
4 determines that the financial report filed by the county, city, special
5 district, *or* joint powers authority,~~or redevelopment agency~~ did
6 not contain *materially* false, incomplete, or incorrect information,
7 the Controller shall waive the costs of the investigation. The
8 Controller may establish a payment program, with interest, for up
9 to five years to assist a local agency to pay for the costs that cannot
10 be waived.

11 (e) This section shall remain in effect only until January 1, 2017,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2017, deletes or extends that date.

14 ~~SEC. 4.~~

15 *SEC. 3.* Section 12464 is added to the Government Code, to
16 read:

17 12464. (a) If the county, city, special district, *or* joint powers
18 authority,~~or redevelopment agency~~ reports are not made in the
19 time, form, and manner required or there is reason to believe that
20 a report is false, incomplete, or incorrect, the Controller shall
21 appoint a qualified accountant to make an investigation and to
22 obtain the information required. The accountant appointed shall
23 report to the Controller the results of the investigation, and a copy
24 shall be filed with the legislative body of the county, city, special
25 district, *or* joint powers authority,~~or redevelopment agency~~; the
26 accounts of which were investigated. If a similar investigation has
27 to be made of the accounts of any county, city, special district, *or*
28 joint powers authority,~~or redevelopment agency~~, for two
29 successive years, a certified copy of the results of the investigation
30 last made shall be transmitted to the grand jury of the county that
31 was investigated or in which the local agency investigated is
32 situated, or, if the agency is situated in more than one county, in
33 the county in which any portion of the agency is situated.

34 (b) Any costs incurred by the Controller pursuant to subdivision
35 (a), including contracts with, or employment of, certified public
36 accountants or public accountants, in compiling a financial report
37 pursuant to Section 12463 or 12463.3 of this code, or as required
38 by Section 33684 of the Health and Safety Code, shall be borne
39 by the county, city, special district, *or* joint powers authority,~~or~~
40 ~~redemption agency~~, and shall be a charge against any

1 unencumbered funds of the county, city, special district, *or* joint
2 powers authority, ~~or redevelopment agency~~. Any forfeiture imposed
3 by Section 53895 or 53895.5 may be offset up to the total costs
4 incurred by the Controller. Any remaining balance shall be forfeited
5 in accordance with Sections 53895 and 53895.5. Any costs incurred
6 by the Controller in excess of the forfeiture imposed shall be a
7 charge against any unencumbered funds of the county, city, special
8 district, *or* joint powers authority, ~~or redevelopment agency~~.

9 (c) This section shall become operative on January 1, 2017.

10 ~~SEC. 5.~~

11 ~~SEC. 4.~~ Article 6 (commencing with Section ~~12485~~) *12486*)
12 is added to Chapter 5 of Part 2 of Division 3 of Title 2 of the
13 Government Code, to read:

14
15 Article 6. *Voluntary Local Agency Financial Review and*
16 *Assistance*
17

18 ~~12485. (a) The Controller may conduct a preliminary review~~
19 ~~to determine the existence of a local agency financial problem if~~
20 ~~the governing body, chief administrative officer, or chief executive~~
21 ~~of a local agency requests a preliminary review under this section.~~
22 ~~The request shall be in writing and shall identify the existing fiscal~~
23 ~~conditions that make the request necessary.~~

24 ~~(b) The local agency shall reimburse the Controller for any costs~~
25 ~~incurred by the Controller in conducting a preliminary review. The~~
26 ~~Controller shall establish a payment schedule of up to five years,~~
27 ~~with interest.~~

28 ~~(c) The local agency shall make its books and records available~~
29 ~~to the Controller for the purpose of conducting a preliminary review~~
30 ~~pursuant to this section.~~

31 ~~(d) In conducting a preliminary review pursuant to this section,~~
32 ~~the Controller shall meet with local agency officials to receive,~~
33 ~~discuss, and consider information provided by the local agency~~
34 ~~concerning the agency's financial condition.~~

35 ~~(e) The Controller shall provide written notification to the~~
36 ~~Governor and the Legislature within 120 days after beginning a~~
37 ~~preliminary review pursuant to this section if the review has~~
38 ~~determined that one or more conditions indicative of a financial~~
39 ~~problem exist within the local agency. A condition indicative of~~

~~a financial problem may include, but is not limited to, the following:~~

~~(1) A default in the payment of principal or interest upon bonded indebtedness for which no funds, or insufficient funds, are on hand and segregated in a special trust fund.~~

~~(2) Failure for a period of 30 days or more beyond the due date to transfer one or more of the following to the appropriate agency:~~

~~(A) Taxes withheld on the income of employees.~~

~~(B) Taxes collected by the local agency as agent for another governmental entity or taxing authority.~~

~~(C) Any contribution required by a pension, retirement, or benefit plan.~~

~~(3) Failure for a period of 30 days or more to pay wages and salaries or other compensation or benefits owed to local agency employees or retirees.~~

~~(4) The total amount of accounts payable for the current fiscal year, as determined by the financial records of the local agency, is in excess of 10 percent of the total expenditures of the local agency in that fiscal year.~~

~~(5) Failure to eliminate an existing deficit in any fund of the local agency within the two-year period preceding the end of the local agency's fiscal year for which a preliminary review was conducted.~~

~~(6) Projection of a deficit in the general fund of the local agency for the current fiscal year in excess of 10 percent of the budgeted revenues for the general fund.~~

~~(7) Material defects in financial reporting and transactions have been identified through an audit conducted by the Bureau of State Audits or the Controller.~~

12486. (a) At the written request of the governing body, chief administrative officer, or chief executive of a local agency, the Controller may convene a local agency financial review committee to provide assistance to ~~local agencies that seek help in averting or managing a serious financial problem~~ *the local agency in reviewing and assessing its financial condition and related internal controls to avert or manage a serious financial problem.*

(b) ~~The request shall include a description of the factors that support the existence of the serious financial problem. These factors may include, but are not limited to, the following:~~

1 ~~(1) Material defects in financial reporting and transactions have~~
2 ~~been identified through an audit conducted by the Bureau of State~~
3 ~~Audits or the Controller.~~

4 ~~(2) An expectation that one or more of the following payments~~
5 ~~will not be made in full or in a timely manner:~~

6 ~~(A) The minimum payment required to be made to the~~
7 ~~employees' pension fund.~~

8 ~~(B) The minimum payment to bondholders.~~

9 ~~(C) The required payment of salaries and wages to employees~~
10 ~~of the local agency.~~

11 ~~(D) The required distribution of local tax revenues to state and~~
12 ~~local agencies.~~

13 ~~(E) The payments to private or nonprofit organizations that are~~
14 ~~required to provide services under programs funded with state~~
15 ~~funds.~~

16 ~~(e) The Controller shall provide written notification to the~~
17 ~~Department of Finance and the Treasurer when a review is initiated~~
18 ~~pursuant to this section.~~

19 ~~(b) The request shall include a description of the factors that~~
20 ~~warrant the need for a review and assessment.~~

21 ~~(d)~~

22 ~~(c) The local agency shall reimburse the Controller for any costs~~
23 ~~incurred by the Controller in conducting a review pursuant to this~~
24 ~~section. The Controller may establish a payment program for up~~
25 ~~to five years, with interest.~~

26 ~~(e)~~

27 ~~(d) A local agency financial review committee shall be chaired~~
28 ~~by the Controller and include representatives of the Treasurer and~~
29 ~~the Department of Finance; both state and local government~~
30 ~~representatives selected by the Controller. The Controller shall~~
31 ~~allow at least two local government representatives to serve on~~
32 ~~the committee, selected as follows:~~

33 ~~(1) If the local agency is a city, representatives selected by the~~
34 ~~League of California Cities.~~

35 ~~(2) If the local agency is a county, representatives selected by~~
36 ~~the California State Association of Counties.~~

37 ~~(3) If the local agency is a special district, representatives~~
38 ~~selected by the California Special Districts Association.~~

39 ~~(f)~~

1 (e) The Controller shall utilize the services of a consultant that
2 has extensive financial management and accounting experience
3 with local agencies in the state to assist the ~~Controller~~ *committee*
4 in evaluating and assisting ~~the local agencies that are undergoing~~
5 ~~or facing a financial problem~~ *agency*.

6 ~~(g)~~

7 (f) In consultation with the local agency requesting assistance,
8 ~~and using any applicable data from a preliminary review conducted~~
9 ~~pursuant to this article if a preliminary review has occurred;~~ the
10 local agency financial review committee shall *provide a written*
11 *report to the local agency, that may include its recommendations,*
12 *assessment of the local agency's financial practices and condition,*
13 *and internal controls related to its financial condition.* ~~recommend~~
14 ~~a financial recovery plan for the local agency. The financial~~
15 ~~recovery plan shall consider both of the following:~~

16 (1) ~~Conducting the operations of the local agency within the~~
17 ~~resources available according to the data provided by the local~~
18 ~~agency.~~

19 (2) ~~The payment in full of the scheduled debt service~~
20 ~~requirements on all bonded and other indebtedness and other~~
21 ~~uncontested legal obligations of the local agency.~~

22 ~~(h)~~

23 (g) Assistance provided pursuant to this section shall not include
24 direct financial payments or loans to local agencies that are not
25 otherwise authorized by statute.

26 (i) ~~The Controller shall report to the Legislature, no later than~~
27 ~~June 30, 2013, and annually thereafter, on the actions of a local~~
28 ~~agency financial review and the status of all engagements with~~
29 ~~local agencies pursuant to this section.~~

30 (h) *If the local agency notifies the Controller that it has initiated*
31 *the neutral evaluation process pursuant to Article 5 (commencing*
32 *with Section 53760) of Chapter 4 of Part 1 of Title 2, the Controller*
33 *shall suspend all activities under this section, unless the local*
34 *agency requests that the activities be continued. The local agency*
35 *shall be liable for costs under subdivision (c).*

36 12487. For purposes of this article, "local agency" means a
37 city, county, city and county, *joint powers agency, or special*
38 ~~district, or redevelopment agency.~~

~~SEC. 6.~~

SEC. 5. Section 53890 of the Government Code is amended to read:

53890. As used in this article, “local agency” means a city, a county, a district, ~~a community redevelopment agency required to furnish financial reports pursuant to Section 12463.1 or 12463.3,~~ and a joint powers agency ~~formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that issues conduit revenue bonds.~~

~~SEC. 7.~~ Section 53892.1 of the Government Code is repealed.

~~SEC. 8.~~

SEC. 6. Section 53895 of the Government Code is amended to read:

53895. (a) An officer of a local agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller shall forfeit to the state:

(1) Two thousand five hundred dollars (\$2,500) in the case of a local agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller’s annual financial reports.

(2) Five thousand five hundred dollars (\$5,500) in the case of a local agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000) but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller’s annual financial reports.

(3) Ten thousand dollars (\$10,000) in the case of a local agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller’s annual financial reports.

(b) (1) Upon the request of the Controller, the Attorney General shall prosecute an action for the forfeiture in the name of the people of the State of California.

(2) Upon a satisfactory showing of good cause, the Controller may waive the penalties for late filing provided in this section.

(c) If an officer of a local agency fails or refuses to make and file his or her report within 20 days after receipt of a written notice pursuant to subdivision (a) for two consecutive years, the forfeiture

1 or fine assessed pursuant to paragraphs (1), (2), and (3) of
2 subdivision (a) in the second year shall be doubled.

3 (d) ~~(4)~~ If an officer of a local agency fails or refuses to make
4 and file his or her report within 20 days after receipt of a written
5 notice pursuant to subdivision (a) for three consecutive years, the
6 forfeiture or fine assessed pursuant to paragraphs (1), (2), and (3)
7 of subdivision (a) in the third year shall be tripled. The Controller
8 shall also conduct or cause to be conducted an independent
9 financial audit report. In the case of a community redevelopment
10 agency, the audit report shall be consistent with the requirements
11 of Section 33080.1 of the Health and Safety Code, and in the case
12 of a joint powers agency, the audit report shall be consistent with
13 Section 6505. The agency shall reimburse the Controller for the
14 cost of complying with this subdivision.

15 ~~(2) A redevelopment agency shall not use any of the funds in~~
16 ~~the Low and Moderate Income Housing Fund to fund any forfeiture~~
17 ~~or fine assessed pursuant to this section.~~

18 (e) An agency that makes a forfeiture or payment pursuant to
19 this section shall still file the report required pursuant to Section
20 53891.

21 ~~SEC. 9.~~

22 ~~SEC. 7.~~ Section 53895.5 of the Government Code is repealed.

23 ~~SEC. 10.~~

24 ~~SEC. 8.~~ Section 53895.7 of the Government Code is repealed.